

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

* * * * *
EGENERA, INC., *
Plaintiff *
vs. * CIVIL ACTION
* No. 16-11613-RGS
*
CISCO SYSTEMS, INC., *
Defendant *
* * * * *

BEFORE THE HONORABLE RICHARD G. STEARNS
UNITED STATES DISTRICT COURT JUDGE
AND A JURY
CIVIL JURY TRIAL DAY 4
August 5, 2022

Courtroom No. 21
1 Courthouse Way
Boston, Massachusetts 02210

JAMES P. GIBBONS, CSR, RPR, RMR
LISA McDONALD, RPR, RMR, CRR
Official Court Reporter
1 Courthouse Way, Suite 7205
Boston, Massachusetts 02210
jamesgibbonsrpr@gmail.com

1 APPEARANCES:

2 On behalf of the Plaintiff:

3 ROPES & GRAY LLP (By Andrew N. Thomases, Esq., and
4 James R. Batchelder, Esq.) 1900 University Avenue, East
Palo Alto, California 94303

- and -

5 ROPES & GRAY LLP (By Josef B. Schenker, Esq. and
6 Rachael S. Bacha, Esq.) 1211 Avenue of the Americas, New
York, New York 10036-8704

- and -

7 ROPES & GRAY LLP (By Scott Taylor, Esq., Emma
8 Notis-McConarty, Esq. and Nicholas Bortz, Esq.)
Prudential Tower, 800 Boylston Street, Boston,
Massachusetts 02199

9 On behalf of the Defendant:

10 DESMARAIS LLP (By Tamir Packin, Esq., Peter C.
11 Magic, Esq. and John M. Desmarais, Esq.) 230 Park
12 Avenue, New York, New York 10169, on behalf of the
Defendant

P R O C E E D I N G S

THE CLERK: All rise for the jury.

(Whereupon, the jury entered the courtroom.)

(Whereupon, the Court entered the courtroom.)

THE CLERK: Court is open. You may be seated.

Resuming on the record in Civil Action No. 16-11613,
Egenera, Inc. versus Cisco Systems, Inc.

Good morning, counsel.

Good morning, jurors. It's great to see you, and I
know we're all looking forward to the weekend; but we should
have an interesting morning, and we'll be out at 1:00 as
usual.

All right. We're ready to resume, and I believe
we left off with the videotaped deposition.

MR. DESMARAIS: Thank you, your Honor.

Just one exhibit thing to clear up on the record before
we start.

So we used during the Manca cross, DX-CR, and that was
marked at the time as JTX-497. And then Egenera reused
JTX-497 with the Clark examination.

So if it's permissible with your Honor, we would like
to relabel DX-CR as JTX-500.

And there is no objection from Egenera.

THE COURT: No, I think that's good. It will avoid
confusion down the road.

1 **(Exhibit No. JTX-500 received in evidence.)**

2 MR. DESMARAIS: Thank you, your Honor.

3 MS. NOTIS-McCONARTY: Good morning, your Honor.

4 We'd like to continue this morning with the deposition
5 of Mr. Hanafi. And for the record, the time allotted to
6 each side for that video is 16 minutes, 44 seconds for
7 Egenera and one minute, 39 seconds for Cisco.

8 THE COURT: All right.

9 MS. NOTIS-McCONARTY: Thank you.

10 (Videotape deposition of Ammar Hanafi resumed.)

11 (Videotape played.)

12 MS. NOTIS-McCONARTY: Thank you, Mr. Fitzgerald.

13 Your Honor, at this time Egenera would offer Cisco's
14 Systems, Inc. response to Egenera's Interrogatory No. 15
15 into the record as JTX-518.

16 THE COURT: Do you intend to read it or --

17 MS. NOTIS-McCONARTY: I'm happy to read it into the
18 record.

19 THE COURT: If it's not too lengthy.

20 MS. NOTIS-McCONARTY: What was that, your Honor?

21 THE COURT: If it's not too lengthy.

22 MS. NOTIS-McCONARTY: Oh, yes, it's not too
23 lengthy.

24 It's a table, your Honor, so I'm happy to read it in
25 with information that's in the table. If that would work

1 well.

2 THE COURT: Well, if it's a table, maybe it makes
3 more sense to just offer it.

4 MS. NOTIS-McCONARTY: Thank you, your Honor.

5 **(Exhibit No. JTX-518 received in evidence.)**

6 MS. NOTIS-McCONARTY: Your Honor, Egenera will play
7 the deposition testimony of Mr. Jason Shaw.

8 Mr. Shaw was a technical marketing engineer in the
9 Server Access Virtual Business unit at Cisco systems.

10 The time, your Honor, for the record, for Egenera, it
11 will be 3 minutes, 11 seconds, and for Cisco it will be one
12 minute, 15 seconds.

13 THE COURT: All right.

14 (Videotape deposition of Jason Shaw played.)

15 MS. NOTIS-McCONARTY: Your Honor, at this time
16 Egenera will play the deposition testimony of Mr. George
17 Chen. Mr. Chen was a program manager at Cisco.

18 The time is 2:01 for Egenera, and 37 seconds for Cisco.

19 (Videotape deposition of George Chen played.)

20 MS. NOTIS-McCONARTY: Your Honor, at this time
21 Egenera will play the deposition testimony of Mr. Michael
22 Heal, who was an accounts manager at Cisco systems.

23 The time is for Egenera 2 minutes, 15 seconds, and for
24 Cisco, 47 seconds.

25 (Videotape deposition of Michael Heal played.)

1 MS. NOTIS-McCONARTY: Your Honor, at this time
2 Egenera would like to play the deposition testimony of
3 Mr. Scott Clark.

4 The Court heard from Mr. Clark live yesterday.

5 He was the VP of Advance Services at Cisco, and the
6 time is 3 minutes and 33 seconds for Egenera.

7 (Videotape deposition of Scott Clark played.)

8 MS. NOTIS-McCONARTY: Thank you.

9 That was Mr. Clark's testimony as a corporate
10 representative for Cisco.

11 Next, Egenera will play the deposition testimony of
12 Mr. Tony Vaidya. He was Director of Software Development at
13 Cisco, and the time is 11 minutes and 37 seconds for
14 Egenera, and 2 minutes and 45 seconds for Cisco.

15 Thank you.

16 (Videotape deposition of Tony Vaidya played.)

17 MS. NOTIS-McCONARTY: Your Honor, for the record,
18 the following exhibits were used in the deposition clips and
19 are, therefor, no longer objected to: PX-BUF is JTX-519.

20 PX-AJN is JTX-520.

21 PX-BRA JTX-521.

22 PX-BWI is JTX-522.

23 THE COURT: The record will so reflect.

24 **(Exhibit No. JTX-519 received in evidence.)**

25 **(Exhibit No. JTX-520 received in evidence.)**

1 (Exhibit No. JTX-521 received in evidence.)

2 (Exhibit No. JTX-522 received in evidence.)

3 THE COURT: All right. Next witness.

4 MR. THOMASES: Good morning, your Honor.

5 THE COURT: Good morning.

6 MR. THOMASES: Andrew Thomases on behalf of
7 Egenera.

8 Our next witness is going to be another adverse
9 witness. And for our next witness we are going to call
10 Cisco's corporate representative Mr. Jayakrishnan.

11 THE CLERK: Please raise your right hand.

12 **BHASKAR JAYAKRISHNAN, sworn,**

13 THE CLERK: Please be seated, and please state your
14 name, spelling your last name for the record.

15 THE WITNESS: Good morning. I'm Bhaskar
16 Jayakrishnan. My last name, J-A-Y-A-K-R-I-S-H-N-A-N.

17 **DIRECT EXAMINATION**

18 **BY MR. THOMASES**

19 Q Good morning, sir.

20 A Good morning.

21 Q We have not met before, correct?

22 A Before this trial, no.

23 Q And you currently work for Cisco, correct?

24 A Yes, I do.

25 Q And do you understand that because you are not employed

1 by Egenera, this is what is an adverse examination, right?

2 A Yes. I've learned that.

3 Q So I'm going to be asking some yes-and-no questions, and
4 to the extent you can answer yes or no, I'd please ask you
5 do so, and let me know if you cannot.

6 Is that okay?

7 A Sure.

8 Q Great. Thank you.

9 What is your current job title at Cisco?

10 A Vice president of engineering.

11 Q And you joined Cisco in 2009; is that correct?

12 A Yes, April 2009.

13 Q And UCS was introduced to the market just shortly after
14 you joined Cisco, correct?

15 A Yes.

16 Q And at the time that you joined Cisco, you led the team
17 of engineering that managed the UCS Manager, correct?

18 A I was hired back in Bangor to augment the USC Manager
19 team in Bangor. So I started setting up the team in Bangor,
20 yes.

21 Q And you've worked on UCS Manager your entire 13 years at
22 Cisco, correct?

23 A Yes. My responsibilities have grown beyond UCS Manager
24 in the last 13 years, but UCS Manager has always been in my
25 scope, yes.

1 Q And you've been promoted over time in those 13 years,
2 correct?

3 A Yes.

4 Q Can you please tell the jury what titles you have had
5 during that time period?

6 A The titles, when I joined it was a manager. I think a
7 year after I joined I became a director.

8 Just for the record, the titles we have externally
9 and the titles we have internally are slightly different.
10 There are internal grade levels.

11 So externally I was a director, I think, for the
12 next seven years. But there are levels within director I
13 was promoted to.

14 Then I think I became a vice president in 2017, I
15 think. And there are a couple of levels within the vice
16 president. I got promoted to a vice president 2, which is
17 an internal grade level, I think, a year or two ago.

18 Q And you're still responsible for engineering for UCS,
19 correct?

20 A Yes.

21 Q And you're well aware of how UCS Manager works, right?

22 A Yes, I am.

23 Q And you're very familiar with the UCS platform, correct?

24 A Yes, I am.

25 Q And during your 13 years at Cisco, UCS has become a

1 flagship product for Cisco, correct?

2 A UCS is a big portfolio, yes, but I wouldn't call it a
3 flagship product for Cisco. There are products that are
4 much larger than UCS.

5 Q Do you recall that you were deposed in this litigation?

6 A Yes, I do.

7 MR. THOMASES: Your Honor, may I approach the
8 witness and the bench?

9 THE COURT: You may.

10 MR. THOMASES: Thank you.

11 (Documents handed to the Court.)

12 Q Mr. Jayakrishnan, I have provided to you your deposition
13 transcript from your deposition in February, February 27,
14 2018.

15 Do you recall that deposition?

16 A Yes.

17 Q And you raised your right hand and swore to tell the
18 truth, the whole truth, and nothing but the truth?

19 A Yes.

20 Q Just like here in a court of law, right?

21 A Yes.

22 Q Can you turn to page 18, line 22.

23 Let me know when you're there, please.

24 A Page 18, line 22. Yes.

25 Q And you were given the question:

1 "QUESTION: And you identify UCS as a flagship
2 product line of Cisco's computing systems product group,
3 right?

4 "ANSWER: Yes, that is correct."

5 A For the product group, yes, because that was the only
6 product that the product group had?

7 Q But it was called the "flagship product" for that
8 product group, correct?

9 A For the product group, yes.

10 Q And in 2016 UCS grew to a 3.5 billion annual run rate
11 product line, correct?

12 A That sounds about right.

13 Q And the annual run rate is even greater today, correct?

14 A Depends on the year. Not every single year.

15 Q But it's in the range of 3.5 billion a year?

16 A That's about right. I don't have the numbers in my
17 memory, but it's somewhere in the ballpark.

18 Q And you feel that you've contributed to the growth of
19 UCS, correct?

20 A Yes, I do.

21 Q Now, UCS was previously called code name "Project
22 California," correct?

23 A Yes.

24 Q And "Project California" was started at a company called
25 Nuova, correct?

1 A Yes.

2 Q And Nuova was founded by several individuals, including
3 Mario Mazzola?

4 A Yes, that's my understanding.

5 Q And also Luca Cafiero?

6 A Yes.

7 Q And a woman named Soni Jiandani?

8 A Yes.

9 Q And also a gentleman named Ed Bugnion?

10 A I've -- know that Ed Bunjion was part of the Nuova.
11 Whether he was part of the founding member at that time, I'm
12 not aware of.

13 Q And when you joined Cisco in 2009 that was shortly after
14 Nuova was acquired by Cisco, correct?

15 A A year later.

16 Q And those executives that I just mentioned were still
17 managing UCS at Cisco, correct?

18 A Yes.

19 Q So in theory they were your supervisors, right?

20 A The names that you mentioned, they were not my direct
21 supervisors, but broadly, yes.

22 Q But they were the executive team responsible for UCS,
23 correct?

24 A Yes.

25 MR. THOMASES: I'm going to ask you, please, to

1 turn to tab one in the binder that I will give you in one
2 minute.

3 May I approach, your Honor?

4 THE COURT: You may.

5 (Binders handed to the Court and witness.)

6 Q Mr. Jayakrishnan, can you turn to Tab 1, please, in the
7 binder?

8 MR. THOMASES: This is JTX-202.

9 Q Can you just look at the cover page.

10 A Yes, I see that.

11 Q Okay.

12 So this is a book entitled "Project California: a
13 Data Center Virtualization Server."

14 And then below the image it says, "UCS (Unified,
15 Computing System.)"

16 Do you see that?

17 A Yes.

18 Q And if you turn to the second page, it's got a number at
19 the bottom with 5978. It should be the first page.

20 And if you want, we have it up on the screen, too, if
21 that's easier.

22 A Sure.

23 Q It's says, "Copyright 2009 by Cisco Systems," and it was
24 published by Cisco Systems in April 2009. Do you see that?

25 A Yes, I see that.

1 Q So this is a book by Cisco Systems, and it's about 289
2 pages long, correct?

3 A I would assume so.

4 Q So this book was published around the same time you
5 started at Cisco?

6 A Yes.

7 Q Can you turn to -- it's page 157. At the bottom, those
8 numbers are 6131.

9 Please let me know when you're there.

10 MR. THOMASES: If we can put the image up on the
11 screen. If we can blow up the top, Figure 100, please.

12 A Yes, I see this.

13 Q So we are looking at Figure 100, and this is -- the
14 system known as "Project California" is organized as shown
15 in Figure 100, correct?

16 A Yes, that is correct.

17 Q Let's walk through the figure a little bit.

18 If you look at the bottom left, there's a gray box.
19 The print is a little hard but it has UCSB200-M1 (half
20 slot), correct?

21 A Yes.

22 Q And on the right-hand side, there's one labeled
23 UCSB2350-M1 (full slot), right?

24 A Yes, I see that.

25 Q And those are a -- the whole gray area, not just the one

1 highlighted, are known as B-Series servers, correct?

2 A Yes, they are.

3 Q And you see in the B-Series servers there's something
4 called "x86 Computer," correct?

5 A Yes, I see that.

6 Q And that is an Intel architecture processor, correct?

7 A At this point in time, with that model of the server, it
8 was Intel, yes.

9 Q And that's also known as the "CPU," correct?

10 A Yes.

11 Q And above that something called "I/O Adapter." There's
12 one on the half slot and two on the full slot, correct?

13 A Yes.

14 Q And "I/O" refers to "input/output"; is that right?

15 A Yes.

16 Q And in UCS, the servers had I/O adapters, correct?

17 A Yes, they do.

18 Q And those were also sometimes known as "NICs"?

19 A Yes.

20 NICs is the general term. Sometimes we refer to
21 them as a VICs or "virtualized interface card."

22 Q And NIC, just for the record, is "network interface
23 card," correct?

24 A Yes.

25 Q And you can see, too, that the system shown in

1 Figure 100 has a fabric extender on the left and a fabric
2 extender on the right above the gray boxes, correct?

3 A Yes.

4 Q And each of the blade Server chassis connects the fabric
5 extender to the I/O adapters, correct?

6 A Yes.

7 Q And they also -- the fabric extenders are also connected
8 to the processors on each blade, correct?

9 A No. The fabric extenders connect to the I/O adapter.

10 They are not connected to the processors.

11 Q Do you see the lines that go from the fabric extender
12 down to the x86 Computer box?

13 A Yes.

14 Q And let's step away from this blow out and go to the
15 language right below it.

16 A Sure.

17 Q And from the paragraph right below "Overall
18 Organization" heading it says, "Each blade server contains
19 one or typically two fabric extenders, the fabric extenders
20 connect to the I/O adapters and to the management processors
21 on each server blade."

22 Did I read that correctly?

23 A Yes, you did.

24 Q The fabric extenders also connect to the fabric
25 interconnects.

1 MR. THOMASES: If we could go back to Figure 100,
2 please.

3 A Yes.

4 Q And the fabric interconnects are there above the fabric
5 extenders, and they're in a box that says "UCS Manager,"
6 correct?

7 A Yes.

8 That is indicative of UCS Manager running in both
9 these fabric interconnects.

10 Q And UCS Manager is software, correct?

11 A UCS Manager is software.

12 Q And UCS Manager is the management software for UCS
13 servers?

14 A It is the management software for not just the UCS
15 servers but for the fabric interconnect as well.

16 Q And the UCS Manager configures the VLAN membership of
17 the servers within the domain, correct?

18 A Yes.

19 Q And in the UCS domain, as managed by the UCS Manager,
20 there is connectivity between the servers, correct?

21 A Yes.

22 Q And each fabric interconnect is connected to both a SAN
23 and a LAN, correct?

24 A The SAN is typically optional. There are customers
25 without a SAN. But, yes, if you were to think about all the

1 possible configurations, this one is accurate.

2 Q This drawing shows each fabric interconnect connected to
3 a SAN and a LAN?

4 A Yes.

5 Q And just for the record, "SAN" stands for "storage area
6 network"?

7 A Yes.

8 Q And "LAN" stands for "local area network," correct?

9 A Yes.

10 Q Now, you have read the '430 Patent, correct?

11 A Yes, I have.

12 Q Can you turn to page 5.

13 MR. THOMASES: And we're going to put up Figure 1
14 of that patent.

15 A I'm sorry?

16 Q Tab 5.

17 A I see that.

18 Q Thank you.

19 On the left of Figure 1 of the '430 Patent we see
20 the boxes called "processing nodes"?

21 A I see that.

22 Q And processing node has a network interface card 107,
23 right?

24 A 105b. Yes, it does.

25 Q Okay.

1 But did you hear the testimony that that is an
2 example, and that each processing node has a NIC card, 107?

3 A Yes, I did.

4 Q And each processing node has a processor. Example are
5 106j and L06l, correct?

6 A Yes.

7 Q And the network adapter in processing node is connected
8 to connections that are connected to a switch fabric,
9 correct?

10 A Yes.

11 Q And this switch fabric is connected to -- each of the
12 switch fabrics is connected to one of the two control nodes,
13 correct?

14 A In this picture you mean?

15 Q Yes.

16 A In this picture, yes.

17 Q And do you understand that in this patent the control
18 node is where the management software operates, correct?

19 A Yes. In the patent, yes.

20 Q And the patent also shows that the control nodes are
21 connected to something with a cloud called "IP 125," do you
22 see that?

23 A Yes.

24 Q And do you understand that to be an external
25 communication network, like a LAN?

1 A Yes.

2 Q And they're also both connected to a SAN fabric, which
3 is connected to SAN storage. Do you see that?

4 A Yes, I see that.

5 Q And do you understand that to be storage area network?

6 A Yes.

7 MR. THOMASES: Let's turn, please, to Tab 17, which
8 is PX-ASM.

9 Q And this is a Cisco document. If you turn to the
10 last -- well, this is a Cisco document, correct? It was in
11 your deposition?

12 A Yes.

13 MR. THOMASES: Can I move PX-ASM into evidence,
14 your Honor, as JTX-523, please.

15 THE COURT: 523.

16 **(Exhibit No. JTX-523 received in evidence.)**

17 Q If you'd turn to the last page, please.

18 MR. THOMASES: Mr. Fitzgerald, it should be PX-ASM,
19 last page.

20 Thank you.

21 Q All right. And here is a topology of the UCS system,
22 correct?

23 A Yes.

24 Q And "Santa Clara" is a name for the UCS server, correct?

25 A "Santa Clara" is the code name for the chassis.

1 Q The chassis?

2 A The servers themselves have different model numbers or
3 code names.

4 Q And in this drawing it refers to each of those chassis
5 as "processing node," correct?

6 A I don't think it refers to the chassis as a processing
7 node. I think that arrow, the one on the right, probably
8 points to a server.

9 Q To one server, okay.

10 So it's pointing to the server that has the CPUs
11 and the NIC cards, correct?

12 A Yes.

13 Q And that processing node is the same term we just saw in
14 Figure 1 of the patent, correct?

15 A "Processing node" is a generic name, yes.

16 Q But it's the same term as in the patent, correct?

17 A Yes.

18 And the processing node in UCS --

19 Q Excuse me.

20 A Sure.

21 Q Your attorney will be able to ask you some questions you
22 can answer afterwards.

23 But I wanted to ask you about processing node
24 utility operating system?

25 A Yes.

1 Q Are you familiar with that?

2 A Yes.

3 MR. THOMASES: We can take that picture down,
4 Mr. Fitzgerald. Thank you.

5 Q And that is sometimes called PNUOS, correct?

6 A Yes.

7 Q And engineers love really long acronyms, right?

8 A Perhaps.

9 Q Okay.

10 P-N-U-O-S, means "proceeding node utility OS, and
11 that is in UCS Manager's software, correct?

12 A That is part of the UCS Manager software, yes.

13 Q And PNUOS is a custom image which contains the drivers
14 and pieces of code that are relevant to a server node,
15 correct?

16 A Yes.

17 Q And the PNUOS runs on the server node, correct?

18 A When we are setting up the servers, yes.

19 Q And it's sent by the fabric interconnect to the server
20 nodes when you're setting up the servers, correct?

21 A At a high level, yes.

22 Q And when running on the server nodes, the PNUOS is used
23 to configure elements of the server node, correct?

24 A It depends on the elements. Some of them, yes.

25 Q The PNUOS is run as part of the service profile

1 association, correct?

2 A Yes. Not always. There are exceptions, but at the high
3 level, yes.

4 Q And service profile association is how the UCS server is
5 configured in the network, correct?

6 A During the process, yes. But PNUOS has no role in it.

7 Q I'm sorry. I missed the last part.

8 A PNUOS -- sorry. PNUOS has no role in setting up the
9 network topology.

10 Q So let's turn to Tab 3. This is PX-ASO, entitled "Cisco
11 UCS Manager Developer's Guide."

12 A Yes, that is correct.

13 Q And you have seen this document before in your
14 deposition?

15 A Yes, I have.

16 MR. THOMASES: Your Honor, we ask PX-ASO to be
17 admitted as JTX-524.

18 THE COURT: 524.

19 **(Exhibit No. JTX-524 received in evidence.)**

20 Q Can you please turn to page 19 of the document.

21 Here we have a table with some terms.

22 It says -- do you see the entry for "PNUOS" right
23 in the middle of the table?

24 A Yes.

25 Q It says, "Runs on a blade for discovery, inventory and

1 blade configuration," correct?

2 A Yes.

3 Q And next to that it says, "A low footprint customized
4 Linux distribution (derived from CentOS) which can run on
5 UCS blades and racks for discovery, inventory, and blade
6 configuration."

7 Did I read that correctly?

8 A Yes.

9 Q So PNUOS is running on the blade servers and the rack
10 servers, correct?

11 A Yes.

12 Q And then two boxes below that has something called
13 "Pre-boot agent." Do you see that?

14 A "Pre-boot agent?"

15 Yes.

16 Q And "The Pre-boot agent operates during LS" -- that's
17 "logical server association"?

18 A Yes.

19 Q And, "It manages the identity of the blade before any OS
20 boots; sets the identity parameters of the motherboard and
21 MAC/WWN addresses for Menlo/Oplin mezzanine cards," correct?

22 A Yes.

23 Q And that's the MAC addresses for the network interface
24 cards, correct?

25 A Specifically for those two interface cards, the VIC

1 cards. We talked about Palo and everything, PNUOS does not
2 set it up.

3 Q But "Menlo's" a code name for a NIC card, correct?

4 A It is for one of the earliest NIC cards.

5 Q And it's implemented on top of PNUOS, correct?

6 A Yes.

7 Q And that means it's really one in the same with PNOUS,
8 correct?

9 A Sorry. Which part is one in the same?

10 Q The pre-boot agent.

11 A The pre-boot agent is part of the PNUOS, yes.

12 Q And that is also sent to the server by a UCS Manager,
13 correct?

14 A In the case of Menlo and Oplin adapters, yes.

15 Q And the "P-N" in "PNUOS" means "processing node,"
16 correct?

17 A Yes.

18 Q And if you go to page 209 of this same exhibit, which is
19 now JTX-524, there's is a glossary there.

20 And if you see towards the bottom there is one
21 called "PN." And it says; "Processing node." And it says,
22 "Sever-class processor/memory complex with a MENLO or PALO
23 adapter providing unified I/O connectivity, a/k/a SANTA CLARA
24 blade (physical, not logical.)"

25 Correct?

1 A Yes.

2 Q So the processing node is the blade, correct?

3 A The processing node, as we call it, yes, it could be a
4 blade or a rack server.

5 Q And higher up in the table there is a definition for
6 "host agent." Do you see that?

7 A Yes.

8 Q And the host agent is a "Lightweight agent running on
9 top of the customer-controlled OS (Windows, Linux, ESX) that
10 communicates with SAM" -- that's a prior name for "PAN
11 Manager," correct?

12 A Yes.

13 Q -- "IMXML over a private serial channel provided by the
14 BMC. The Host Agent is used for discovery (in particular of
15 interfaces and I/O paths), monitoring of the general health
16 of the server, and optionally provisioning of VLAN, VHBA."

17 Did I read that correctly?

18 A Yes. I see that.

19 Q So the host agent can provision the VLAN and HBA,
20 correct?

21 A No, the host agent cannot provision the VLAN and HBA.

22 Q It's used to help provision the VLAN and HBA, correct?

23 A It is not used to -- I mean, the VLAN and VHBA are
24 configured on the fabric interconnect.

25 The host agent runs on the processing node.

1 That's why I'm trying to map what this thing is
2 calling out.

3 Q Okay.

4 But it does says it's a "Lightweight agent running
5 on top of a customer-controlled OS."

6 And it does say "provisioning of VLAN and HBA,"
7 right?

8 A Yes.

9 Q And that means it's running in the Windows operating
10 system or the Linux operating systems, right?

11 A Actually, we did not ship the host agent with Windows.
12 I think these were based on original plans but never
13 happened.

14 Q But it does run on Linux?

15 A It runs on PNUSCS.

16 Q Which is running in Linux?

17 A Which is Linux-based, but this is not a controlled --
18 customer-controlled OS.

19 Q I want to talk a little bit about discovery in UCS
20 Manager.

21 A Yes.

22 Q You're familiar with that?

23 A Yes.

24 Q And UCS Manager performs an automated device discovery,
25 correct?

1 A Yes.

2 Q And in the automated device discovery process, UCS
3 recognizes any resource as soon as it's plugged into the
4 UCS?

5 A After it undergoes the discovery process, yes.

6 Q And after the resource is installed, the manager adds it
7 and its characteristics to the system inventory, correct?

8 A Yes.

9 Q Now, UCS can reconfigure a resource, correct?

10 A UCS can reconfigure a resource?

11 If you're referring to a logical server
12 configuration, yes.

13 Q And UCS Manager can group resources into pools by type,
14 correct?

15 A It can group -- we have a construct called "pools."
16 Yes, you can group them.

17 And by "type," you have to clarify what you mean.

18 MR. THOMASES: Let us pull up JTX-169 at page 6,
19 please.

20 Q Which tab? Sorry.

21 MR. THOMASES: I'm not sure if we have that.

22 Let me see. It's Tab 2, if you need a paper copy, but
23 we can have it on the screen as well.

24 So lower paragraph, Mr. Fitzgerald, please.

25 Q It says here, "UCS Manager can group resources into

1 pools by type and allocate them to production use based on
2 specific characteristics, such as number of CPUs," correct?

3 A Yes.

4 Q So UCS can group by number of CPUs, correct?

5 A UCS can group the servers into pools by the number of
6 CPUs the servers have.

7 Q Can you turn to Tab 4, which is PX-AUL. It's entitled
8 "CAE: UCS Quick Start Guide" by Cisco.

9 And that's a Cisco document, correct?

10 A I would assume so, yes.

11 MR. THOMASES: Your Honor, we would like to mark
12 that as 525.

13 THE COURT: 525.

14 **(Exhibit No. JTX-525 received in evidence.)**

15 Q If you can turn to page 30.

16 Let's start with page 29 of this document.

17 At the bottom there's something called "Associate
18 Service Profile to Server Blade."

19 A Yes.

20 Q And that is discussing how you associate the network to
21 one of the server blades, correct?

22 A Actually, a lot of configuration, yes. The network
23 configuration is part of it.

24 (Reporter interrupts.)

25 Q And in this user guide there's some graphical depictions

1 of the user interface in UCS Manager, right?

2 MR. THOMASES: Let's look at the next slide.

3 Thank you.

4 Q So this is what a user using UCS Manager would see on
5 their screen when they're doing the association process,
6 correct?

7 A Yes.

8 Q It's entitled "Associate Service Profile," and you
9 select an existing server pool or previously discovered
10 server by name, or manually specify a custom server by
11 entering its chassis and slot ID. If no server currently
12 exists at that location, the system waits until one is
13 discovered.

14 And then there is the ability to select a server.
15 The user can select a server, correct?

16 A Yes.

17 Q And that red circle is actually in the original document
18 teaching UCS customers how to use this user interface,
19 correct?

20 A Yes.

21 Q And then there's a circle around three dots in the table
22 below it, and each of those represents a different server,
23 correct?

24 A Yes.

25 Q And it has the chassis ID and slot number for those

1 servers?

2 A Yes.

3 Q There's a column that says "Procs," P-R-O-C-S, correct?

4 A Yes.

5 Q And that's the number of processors on the server?

6 A Number of CPUs, not processors.

7 Q So the user can select a server knowing the number of
8 CPUs on that server, correct?

9 A Yes.

10 Q Now, the servers in UCS -- I'll start over.

11 The servers in UCS are completely stateless,
12 correct?

13 A Not completely stateless.

14 If you have local discs, for example, they have
15 state.

16 Q But blades are completely stateless, correct?

17 A The blades have disks as well.

18 Q Well, let's turn back to JTX 202 at page 43. That's the
19 big computing book, which is Tab 1.

20 If you look at page 43, which has the number 6017,
21 there's a paragraph that says "stateless computing." Do you
22 see that on the screen?

23 A Yes.

24 Q It says, "The blade and the blade enclosures are
25 completely stateless." Do you see that?

1 A Yes. The enclosures are stateless.

2 Q And the blades are stateless, correct?

3 A The blade configuration is stateless.

4 Q And by not tying server attributes to physical hardware,
5 UCS guarantees seamless server mobility, correct?

6 A Yes.

7 Q And you were here for all the days of trial so far,
8 correct?

9 A Yes.

10 Q Sitting with counsel, correct?

11 A Yes.

12 Q So you were here for the testimony of Mr. Brownell, and
13 you understand from Mr. Brownell's testimony that Egenera's
14 BladeFrame system also has stateless computing on its
15 processing nodes, correct?

16 A Yes.

17 Q And you mentioned these I/O adapters and one was Palo,
18 correct?

19 A Yes.

20 Q And Palo was also known as a converged network adapter,
21 correct?

22 A Yes.

23 Q CNA?

24 A Yes.

25 MR. THOMASES: If we could turn to page 134 of

1 JTX-202, which is ended in 6108.

2 Q So the converged network adapters like Palo relied on
3 two distinct drivers at the OS level, correct?

4 A Yes.

5 Q And like any other hardware manufacturer interacting
6 with software, you need drivers for hardware, correct?

7 A Any network interface typically needs a driver, yes.

8 Q And Cisco has experienced bugs with its drivers for UCS,
9 correct?

10 A Like any piece of software, yes.

11 Q And, in fact, you have whole tech support pages of how
12 to resolve bugs for UCS, correct?

13 A For various components of UCS, yes.

14 Q And the fact that you have bugs doesn't mean that your
15 product's a failure, right?

16 A Defects do happen, yes.

17 Q And Cisco fixes the bugs as fast as they can, correct?

18 A Yes.

19 Q And, in fact, you have pages for bug fixes, correct?

20 A Yes.

21 Q Let's turn to Tab 13, which is a printout from one of
22 those user support pages.

23 And if we can go to the third page of that.

24 (Pause in proceedings.)

25 MR. THOMASES: I will show it on the ELMO, if I can

1 get that, please.

2 Thank you.

3 (Pause in proceedings.)

4 Q This is a --

5 MR. RHODES: Counsel, what's the number on the
6 exhibit list for this one?

7 MR. THOMASES: This is from Ciscos' web page.

8 Q So, it's from the tech. support web page. It says, UCS
9 220M5 Windows 2016 driver problem.

10 On the third page it says, The PCI device may be
11 related to the VIC management interface, and according to
12 Cisco, Bug CSCVK13597, installing the driver for it can
13 cause the server BSOD.

14 Do you see that?

15 A Yes.

16 Q BSOD, means "blue screen of death," correct?

17 A Yes.

18 Q And that bug actually has a Cisco number?

19 A Yes.

20 Q Okay.

21 So bugs happen, but --

22 A Yes.

23 Q -- Cisco's still successfully selling UCS, correct?

24 A Yes.

25 It depends on the nature of the defects, yes.

1 MR. THOMASES: Can we switch back, please, to
2 Mr. Fitzgerald.

3 Thank you.

4 Q Now, the Palo I/O adapter has CPUs in it, correct?

5 A Not something you can run applications on. In the Palo
6 adapter we have an ASIC. Within the ASIC there are
7 computational allotments to handle the resources of the
8 ASIC.

9 Q Those are CPUs, correct?

10 A We call them CPUs, as long as you are within the context
11 of that basic.

12 MR. THOMASES: Can we turn to JTX-202 again at
13 page 137, which is Bates No. 6111.

14 Q Up there in the right-hand corner, this is a Figure 86,
15 six Palo detailed block diagram, and the left corner of that
16 has three CPUs, correct?

17 A Yes.

18 Q Now, again you were --

19 MR. THOMASES: You can take it down, please,
20 Mr. Fitzgerald.

21 Q You were here throughout the course of the trial,
22 including the testimony of Mr. Manca, correct?

23 A Yes.

24 Q And your counsel asked Mr. Manca about Savvis, and its
25 relationship with Cisco; do you recall that?

1 A Yes.

2 Q And counsel for Cisco asked Mr. Manca for proof that UCS
3 and Cisco came to Savvis to take away sales of BladeFrame
4 before the UCS was released in 2009. Do you recall that?

5 A Yes.

6 Q And Mr. Manca said that he didn't have the proof because
7 he didn't have access to Cisco's documents, correct?

8 A Yes.

9 Q And you have access to Cisco's documents, correct?

10 A Not all of them.

11 Q Okay. But under court rule, Cisco and its attorneys
12 have access to the Cisco documents in this case, but
13 Mr. Manca doesn't.

14 Do you understand that?

15 A Yes.

16 Q And you don't have access to Egenera's document produced
17 in this case because of the court rules, correct?

18 A That is correct.

19 Q But you know the statement about Mr. Manca not having
20 the documents was a bit misleading because he couldn't see
21 whether Cisco had documents showing that it went to Savvis
22 before the release of UCS to sell UCS to Savvis, right?

23 A My knowledge is based on interactions in this courtroom.
24 I'm not a legal expert.

25 Q Okay. But you sitting here as Cisco's corporate

1 representative --

2 A Yes.

3 Q -- know that Cisco went to Savvis, an Egenera top three
4 customer, in 2007 to steal away business from Egenera
5 BladeFrame, right?

6 A If you're referring to the documents or deposition you
7 just showed, I learned it as part of those depositions. I
8 don't think they were stealing away. I think they were
9 preaching UCS.

10 Q Do you know that Savvis was one of Cisco's first UCS
11 customers?

12 A I learned that during this trial.

13 Q And do you know that Cisco was targeting Savvis as a
14 customer before UCS came out?

15 A Other than what has been presented at the trial, I have
16 no other information.

17 Q Let's look at Tab 7, which is PX-AUE. It's a Cisco
18 email from its founder, or one of their earliest employees,
19 Ed Bugnion.

20 MR. THOMASES: And, your Honor, we would mark this
21 as 526, please.

22 THE COURT: 526.

23 **(Exhibit No. JTX-526 received in evidence.)**

24 Q Do you see at the top --

25 MR. THOMASES: Let's call out the address.

1 Q -- and the subject line?

2 A Yes.

3 Q It's from Ed Bugnion to an email list called
4 marketing-list; execs; Rupinder Judge and Mike Dvorkin,
5 correct?

6 A Yes.

7 Q That's dated December 19, 2007, correct?

8 A I see that.

9 Q This is more than a year-and-a-half before the official
10 release of UCS, right?

11 A Yes.

12 Q And the subject line is "Notes-Savvis meeting," right?

13 A I read the subject, yes.

14 Q Can we look at the first bullet, or set of bullets.

15 There's Savvis participants, including the CTO and
16 senior vice president of Savvis, right?

17 MR. THOMASES: Can we also capture the first
18 sentence of the email, Mr. Fitzgerald.

19 Q Mr. Bugnion -- this is one of the early architects of
20 UCS, correct?

21 A Sorry?

22 Q Mr. Bugnion was one of the early architects of UCS,
23 right?

24 A Ed Bugnion, yes.

25 Q And same with Mr. Mike Dvorkin?

1 A Mike Dvorkin was the architect for UCS Manager, yes.

2 Q And Mr. Bugnion, says, "David and I had a very good
3 meeting with SA." That stands for "Savvis," correct?

4 A "SA" stands for "Savvis" likely.

5 Q And it shows as Savvis participants, Brian Doer, CTO and
6 senior vice president among others, including people who are
7 in the server architecture and storage architecture and host
8 engineering, right?

9 A I would assume so.

10 Q Yes.

11 And the next major bullet, the third bullet down,
12 says "UC (utility computing) using Egenera. PAN manager is
13 used internally but not exposed to customers. Savvis portal
14 connects to PAN Manager via API and CLI."

15 And at the end it says, "Savvis is the third
16 largest customer."

17 Do you see that?

18 A Yes.

19 Q And the next bullet -- there's a sub-bullet that says,
20 Savvis is a huge Egenera customer, top 3, do you that?

21 Sixth bullet down, maybe.

22 "Huge Egenera customer, (top 3)." Do you see that?

23 A Yes.

24 Q And then let's go down a little bit.

25 There's a bullet called "Follow-ups."

1 MR. THOMASES: We'll blow that out.

2 Q "Follow-ups.

3 "Very interested in the beta for Oregon and
4 California." Do you see that?

5 A Yes.

6 Q And we established that "California" is the code name
7 for UCS, correct?

8 A Yes.

9 Q And beta is beta testing UCS, correct?

10 A Yes.

11 Q And that was in December of 2007, a year-and-a-half
12 before UCS Manage -- sorry, UCS, the product, was released,
13 correct?

14 A In terms of timeline, yes.

15 Q And so that -- then they were scheduling follow-up calls
16 with more members of Savvis CTO office in January of that
17 next year.

18 And We'll -- it says, "Will schedule a deep dive on
19 management integration (API SDK). Target is 2/1/2008. Will
20 work with Rupinder and Mike on this," correct?

21 A I read that. Yes.

22 Q And Rupinder Judge was the director of engineering at
23 Nuova, and he stayed on at Cisco until 2012, right?

24 A Rupinder by the time I had joined, he was not managing
25 the UCS Manager team. But I know he was involved with UCS

1 Manager prior to me joining Cisco.

2 Q But he stayed on as the director of engineering,
3 correct?

4 A I haven't followed what he did after he moved out of UCS
5 Manager.

6 Q So in 2007, Cisco -- or Nuova is setting up its top
7 engineers to go talk with the top engineers at Savvis to run
8 beta testing of UCS at Savvis, correct?

9 A Savvis and probably many other customers as well.

10 Q Let's turn to Tab 18 in your binder, please. This is
11 already marked as JTX-472.

12 A I don't have it.

13 MR. THOMASES: May I approach, your Honor?

14 THE COURT: You may.

15 Q So this is JTX-472.

16 Do you see the email exchange from Andrey Kvasyuk,
17 to Scott Clark, Greg Page, Rob Willekes, Fresia Valderrama,
18 George Chen, Satinder Sethi and Jason Shaw?

19 And it was dated November 2, 2009, correct?

20 A Yes, I see that here.

21 Q And you know that Andrey Kvasyuk was at Cisco, and he
22 was a former Egenera employee, right?

23 A I learned that during the trial. I have not interacted
24 with Andrey Kvasyuk.

25 Q And we know that Scott Clark is a former Egenera

1 employee, correct?

2 A Yes --

3 Q And we know that George Chen is a former Egenera
4 employee? We just heard his deposition, correct?

5 A Yes.

6 Q And we know that Jason Shaw is a former Egenera
7 employee?

8 A Yes.

9 Q And we know that Satinder Sethi is a former Egenera
10 employee?

11 A Yes.

12 Q And they are talking about, again, selling to Savvis,
13 correct?

14 A I have no -- I have not seen the contents of the email.

15 Q I apologize.

16 At the very bottom of the first page, there is an
17 email from Greg Page to all those individuals, and it says:

18 "Rob,

19 "We have UCS side by side with Egenera in Savvis'
20 Santa Clara SC9 lab," right?

21 A I see that.

22 Q So here we are having a bunch of former Egenera
23 employees talking about putting up side by side systems at
24 Savvis so that Cisco can take away the sales from BladeFrame
25 to sell UCS to Savvis, correct?

1 A I cannot talk about the intention, but I'm sure we were
2 trying to sell UCS to Savvis.

3 MR. THOMASES: Let's turn to tab eight of your
4 binder, please.

5 This is PX-AEO. It's an October 26, 2009 email
6 internal to Cisco entitled "CMS Egenera competitive
7 discussion."

8 Your Honor, we'd like to enter that as JTX-527 please.

9 THE COURT: 527.

10 MR. THOMASES: Thank you.

11 **(Exhibit No. JTX-527 received in evidence.)**

12 Q Okay, now, let's go to the first email in the chain,
13 which is on page 2.

14 MR. THOMASES: Let's just pull out the address,
15 time, and subject line.

16 Q It's dated October 26, 2009. Do you see that?

17 A Yes --

18 Q Chris Davy, Cisco to a number of people, again including
19 Jason Shaw of Cisco who was formerly at Egenera. Do you see
20 that?

21 A Yes.

22 Q And it's addressed to Jason and Karli. Do you see that?

23 A Yes.

24 Q Let's go to the end of that email because it has a
25 section called, "Recent details for history," that goes from

1 page 3 to 4.

2 Okay. "Recent details for history.

3 "Speak to CMS again" -- that's potential customer,
4 correct?

5 A Sorry. Repeat that again, please.

6 Q At the bottom, "Recent details for history.

7 "Spoke to CMS again. They just got out of a
8 meeting with Egenera and they ask the engineering about QoS
9 and Multicast." Do you see that?

10 A Yes.

11 Q And CMS is a prospective customer of Cisco for UCS,
12 right?

13 A I don't know what CMS stands for.

14 Q Well, we'll see in context.

15 Let's look at the next.

16 "CMS is asking us to help them rephrase the
17 questions to get them to explain exactly how they support
18 this. Just an FYI, as the competitive data we have been --
19 we have is being denied by Egenera, we have also now been
20 asked how we compare in terms of the stateless blade concept
21 they have, which is supposedly what gave Egenera the edge
22 over HP, IBM, Dell, et cetera, in the initial evaluation."

23 Do you see that?

24 A Yes, I see that.

25 Q So here are UCS people who are trying to get an edge

1 over Egenera because Egenera has the edge over HP, IBM,
2 Dell, et cetera, correct?

3 A HP's capabilities at that point were -- had done a bare
4 fit. It depends on Savvis' evaluation of the capabilities.
5 So I cannot speak for Savvis in terms of which particular
6 features they were looking for.

7 MR. THOMASES: Let's go a little higher in the
8 email, top of page 3, please, Mr. Fitzgerald.

9 Q Again, this is a Mr. Davy writing to Jason and Karli and
10 copying others.

11 "I included (cc'd) some of you that I know are busy
12 this week or were included in the last Egenera competitive
13 discussion for your interests. Please feel free to
14 participate if you can/want as I'm sure it will be
15 informative and valuable for other accounts. I will make
16 sure to send out the details for everyone after review.

17 "I wanted to set up a meeting to discuss the
18 current competitive situation with Egenera at CMS. Egenera
19 has responded to the customer and partner questioning many
20 of the competitive points that we have raised and with no
21 hesitation they denied and countered the points that were
22 brought up. I wanted to regroup and make sure our data is
23 correct. We had a call a while back with a few folks that
24 came from that team and have a presentation that we used so
25 we try to keep the current data that is pertinent to the

1 situation. It's as if Egenera has our competitive details
2 against them and is looking to play safe, knowing we are
3 coming on strong in this account."

4 Did I read that correctly?

5 A As written here, yes.

6 Q Okay.

7 And then the next paragraph says, "I need to
8 develop a test plan that positions UCS to shine and Egenera
9 to fall short. We have been asked to direct this so we can
10 force the results. We also are being asked to ask for what
11 they should state as 'CMS requirements' to put Egenera on
12 the way out in the next phases of server migrations."

13 Was Cisco rigging tests against the Egenera
14 bladeframe to win sales, forcing bad results for Egenera?

15 A I cannot speak for what CMS is or what their tests are
16 talking about.

17 UCS' and Egenera's capabilities are very
18 different. And as a result of it, I'm sure somebody was
19 trying to put together a set of tests which shows UCS'
20 strengths.

21 Q But "forcing the results," correct? That's what it says
22 there? So we can force the results, right?

23 A I read that email. But I am not the one who composed
24 it. So I don't know what was meant there.

25 Q Let's look at the responsive email, which is in the

1 middle of page 2.

2 This is from Jason Shaw, who was previously at
3 Egenera, and is now working as a technical marketing
4 engineer for Cisco.

5 MR. THOMASES: Blow up that email right there.

6 Q Jason Shaw, technical marketing engineer, and he says,
7 "I've got lots to share."

8 He's saying, I know how to force the results, to
9 favor UCS to shine and Egenera to fall short, right?

10 A I did not write the email so I cannot comment for Jason
11 Shaw.

12 MR. THOMASES: All right. We can take that down
13 please, Mr. Fitzgerald.

14 Thank you.

15 Q So switching gears.

16 Every time UCS makes a modification to UCS, it will
17 test the modified UCS, correct?

18 A In general, yes.

19 Q And for UCS Manager software you have something called
20 unit tests, correct?

21 A Most software has unit tests, yes.

22 Q And these tests might be automated?

23 A Some of them are.

24 Q And you also have end-to-end testing, correct?

25 A Yes, that is correct.

1 Q And in the end-to-end testing, system integration --
2 Cisco combines all of the various components to check how
3 they interact with each other, correct?

4 A Yes.

5 Q And the testing is to ensure that the customer has a
6 seamless experience, right?

7 A That is the objective, yes.

8 Q And testing is a necessary part of product development
9 life cycle?

10 A Any product development, yes.

11 Q And Cisco does its unit tests in the United States?

12 A Amongst other locations, yes.

13 Q And it does its component-level tests in the United
14 States?

15 A Amongst other things, yes.

16 Q And ESIT tests, those occur in the United States?

17 A Can you repeat that again?

18 Q ESIT tests occur in the United States?

19 A Sorry. I don't know what that stands for.

20 Q End-to-end system integration tests occur in the United
21 States?

22 A Yes, amongst other locations in the U.S. as well, yes.

23 THE COURT: Why don't we pause here for the morning
24 recess, it being ten of.

25 Jurors, let's take a hard-earned morning recess, and

1 we'll come back at 11:15

2 THE CLERK: All rise.

3 Court is now in recess.

4 (Recess.)

5 Bhaskar Jayakrishnan resumes the stand.

6 THE CLERK: All rise for the jury.

7 (Jury enters.)

8 (Court enters.)

9 THE CLERK: Resuming on the record, case number
10 16-11613. Please be seated.

11 THE COURT: I think we can resume.

12 MR. THOMASES: Thank you, your Honor.

13 **DIRECT EXAMINATION**, Cont'd

14 BY MR. THOMASES:

15 Q Mr. Jayakrishnan, you supervise a number of design
16 engineers, is that right?

17 A Yes, I do.

18 Q And frequently, design engineers get input from sales
19 engineering teams about customer feedback, correct?

20 A Yes, they do.

21 Q And sometimes customers ask for features to be
22 implemented in the UCS system, right?

23 A Yes.

24 Q And same with feedback from the market intelligence
25 teams, correct?

1 A Yes.

2 Q Product marketing?

3 A Product marketing. We call it product management, but
4 yes.

5 Q Okay. And the engineers then sometimes implement those
6 requests into the UCS system?

7 A Sometimes they do, sometimes they don't, yes.

8 Q And at Cisco, former Egenera employees who were
9 technical marketing or sales would give feedback to the
10 Cisco design team to implement features into UCS, correct?

11 A Anyone in product management does provide feedback, yes.

12 Q Including people who used to work at Egenera, correct?

13 A Yes, including people who formerly used to work at
14 Egenera, yes.

15 Q Can you please look at tab 10. It is JTX-518. It is an
16 interrogatory response that Cisco provided to a question
17 from Egenera. It's asking about the former Egenera
18 employees at Cisco or Nuova, and if we turn to the second
19 page and the third page, there is a table, please.

20 This is a list written by Cisco of all of the
21 Egenera employees that were then employed by Nuova or Cisco,
22 do you understand that?

23 A Yes.

24 Q Okay. And this is signed under oath as an
25 interrogatory, and as the judge said in the case,

1 interrogatories are binding on Cisco, is that correct?

2 A I would assume so. I'm not a legal expert.

3 Q Okay. So if you look for example at Andrey Kvasyuk at
4 the top there, he was a solution -- he is a solution
5 architect or was a solution architect at Cisco, and he came
6 in January, 2009, correct?

7 A I never directly interacted with Mr. Kvasyuk but I'm
8 assuming the interrogatory is correct.

9 Q Cisco's signed this interrogatory, so they must have
10 researched it and signed it as accurate, correct?

11 A I would assume so, yes.

12 Q And that is before UCS was released, correct?

13 A 1/5 as in January 5. Yes.

14 Q And then there is Blaine Lincoln, a solutions architect.
15 He came, it says both, that means both Cisco and Nuova, and
16 he came in April of 2008, correct?

17 A Yes.

18 Q And then there is George Chen who we will hear from a
19 little later today a little further down, he was a delivery
20 manager. He also came before UCS was released, starting
21 February 2009, do you see that?

22 A Yes.

23 Q Jason Shaw, technical marketing engineer, he was both at
24 Nuova and Cisco, and he started in 2008. You see that?

25 A Yes. I see that.

1 Q And there is a number of others but I'll also point on
2 the next page to Mr. Satinder Sethi, vice president. Do you
3 see that?

4 A Yes.

5 Q And he came pretty early, September of 2006, and he was
6 at both Nuova and Cisco, correct?

7 A Yes.

8 Q And below that is also Scott Clark, vice president. He
9 was at both Nuova and Cisco, correct?

10 A Yes.

11 Q And Mr. Satinder Sethi was vice president of engineering
12 at Cisco, correct?

13 A He was never vice president engineering. He was always
14 in the product management team. I did report to him for
15 probably about six months when we were going through a
16 leadership transition sometime in 2015 or '16, but he was
17 never a vice president of engineering.

18 Q I'm going to show you Cisco's response to a different
19 interrogatory just to refresh your memory because it was
20 sworn again under oath.

21 MR. THOMASES: May I approach, your Honor?

22 THE COURT: You may.

23 Q Interrogatory -- Defendant Cisco's Supplemental
24 Interrogatory responses to, once 22, page 45. There is a
25 table that identifies Satinder Sethi, Title: VP of

1 Engineering. Does that refresh your memory?

2 A This is the first time I'm seeing this document. I've
3 never interacted with Satinder Sethi as VP of Engineering.
4 I only interacted --

5 (Court reporter interrupted.)

6 A I said this is the first time I'm seeing this document.
7 I have never interacted with Mr. Sethi as vice president
8 engineering. I always interacted with him as a vice
9 president of product management.

10 Q So, but it is possible that he had been vice president
11 of engineering after the last time you interacted with him?

12 A After the last time I interacted with him. I mean,
13 Mr. Sethi is not with Cisco anymore and he was not a vice
14 president of engineering in the last years. He wasn't Cisco
15 either.

16 Q So this interrogatory is incorrect?

17 A I don't know. I don't know who put it together but I
18 would have to check with them.

19 Q But he was pretty high up in the UCS project team,
20 correct?

21 A Yes, he was a vice president, so yes.

22 Q And at one point you reported to him in 2016, correct?

23 A During an interim period when my manager had left and
24 they wanted somebody to hold onto the team until they found
25 a replacement.

1 Q And do you understand this interrogatory response,
2 JTX-518, was provided under those rules I discussed, so that
3 the attorneys could see it but no one at Egenera or former
4 Egenera could see it, like Mr. Manca?

5 A I will take your word for it. I don't know.

6 Q And can we have PDX-7 slide 15 up again. This was used
7 during Mr. Manca's testimony. It was a list of people
8 Egenera remembered left to go either to Nuova or Cisco; do
9 you remember that?

10 A Yes, I saw this table being shared during the trial,
11 sir.

12 Q And Cisco's attorney put it on the overhead projector
13 here, was poking at it and questioning Mr. Manca as to why
14 he didn't know specific people on this list that took
15 confidential information to Cisco; do you remember that?

16 A I remember that line of questioning, yes.

17 Q And that is a little unfair because Mr. Manca couldn't
18 have access to the materials that we've now seen here in
19 court because they were kept confidential under the court
20 rules. If anyone had taken anything to Cisco, Egenera
21 employees who still were at Egenera couldn't see it, right?

22 A I wouldn't know.

23 Q But this list is accurate compared to the list we look
24 at in the interrogatory, correct?

25 A Sorry? You mean the list of the people listed here as

1 opposed to their titles?

2 Q Yes.

3 A I would assume so. The list of names, I'm assuming the
4 ones here are accurate.

5 Q And a number of them were at both Nuova and Cisco, and a
6 number of them came before UCS was released at Cisco,
7 correct?

8 A Yes. They joined Nuova prior to the release, yes. If
9 they joined Nuova, it was prior to the release of UCS.

10 Q Okay. Let's talk a little bit more about Mr. Sethi who
11 you reported to and became a VP at Cisco. He arrived at
12 Nuova in 2006, correct?

13 A Yes, I see the dates here.

14 MR. THOMASES: And we could take this down please,
15 Mr. Fitzgerald.

16 Q Mr. Sethi was instrumental in the success and rapid
17 adoption of UCS, correct?

18 A I would think so.

19 Q And do you know who Ms. Soni Jiandani is?

20 A Yes.

21 Q And she is a vice president of the whole data center
22 group, or at least was?

23 A She was, yes.

24 Q And again, she was one of the executives when Cisco
25 originally acquired Nuova, correct?

1 A Yes.

2 Q And Mr. Sethi reported to her?

3 A I believe so, yes.

4 Q Let's turn to tab 12, please.

5 At the bottom there, this is a email from Miss
6 Jiandani, Senior Vice President Data Center Group; do you
7 see that?

8 A Yes, I see that.

9 MR. THOMASES: Your Honor, this is PX-BNO but we
10 would like to enter it as JTX-528, please.

11 THE COURT: All right. 528.

12 **(Plaintiff's Exhibit No. JTX-528 received in**
13 **evidence.)**

14 MR. THOMASES: Thank you. All right. Let's blow
15 up the bottom half there, please.

16 Q Miss Jiandani, one of the people who was at Cisco when
17 Cisco was investigating Egenera in 2004, went to Nuova when
18 it was founded when Mr. Mazzola, then was acquired in that
19 spin-in, Nuova was spinning from Cisco, is now praising
20 Mr. Sethi for his work on UCS, correct?

21 A In this email yes, Mr. Sethi and many others, yes.

22 Q Okay, but Mr. Sethi is getting an expanded leadership
23 role. He is getting promoted in this announcement; correct?

24 A Yes, I'm just seeing it. That's how it looks, yes.

25 Q And he is now -- TME means "technical market

1 engineering," correct?

2 A Technical market engineering, correct.

3 Q And solution engineering, correct?

4 A And solution engineering, yes.

5 Q And UCS product management, correct?

6 A Yes.

7 Q And Mr. Sethi, in the next paragraph, she's saying she's
8 very proud of the UCS team who is now -- UCS has the number
9 two market share in the United States and number three
10 worldwide in blade servers, correct?

11 A Yes, I read that, yes.

12 Q Okay. And the last paragraph of the page, "Satinder has
13 been with the UCS team for almost six years and has been
14 instrumental in driving the success and rapid adoption of
15 UCS;" do you see that?

16 A Yes, I read that.

17 Q And if we just go back to the time of this email and the
18 header, it was from March of 2012, right?

19 A Yes.

20 Q And at that time, UCS had the number two market share in
21 the United States, but in a short time, it became the number
22 one market share in the United States for blade servers, is
23 that right?

24 A Yes. I remember that we have been number one and number
25 two competing with HP in blade servers. Which years, I

1 don't have right on top of my head.

2 Q Do you remember an invitation to a big barbecue to
3 celebrate the reaching of number one in 2014?

4 A Oh, sorry, I moved to the U.S. in 2015 and
5 unfortunately, I missed out on the party.

6 Q But you received the invite, do you recall that from
7 your deposition?

8 A I don't think so. Maybe I did. I don't know.

9 Q So between its release in late of 2009 to 2012, Cisco's
10 UCS rocketed from no market share to number two market share
11 in the United States for UCS for blade servers, correct?

12 A UCS has been well-accepted by our customers, so
13 thankfully, yes. Yes, we did.

14 Q And that was because Mr. Sethi, a former engineer from
15 Egenera, was part of the UCS team?

16 A Mr. Sethi and many others I'm sure contributed to the
17 success.

18 Q But he was instrumental in the rapid growth, correct?

19 A He sure was.

20 Q Do you know that Mr. Sethi had comprehensive knowledge
21 of BladeFrame and PAN Manager from his time at Egenera?

22 A I'm sure he had good knowledge of BladeFrame, yes.

23 Q And did you hear -- and you heard Mr. Manca testify that
24 Mr. Sethi participated in Egenera's technical and
25 engineering meetings, correct?

1 A Yes, I did hear that, yes.

2 Q And do you know that while he was at Nuova, Mr. Sethi
3 wrote product requirements, documents for UCS Manager?

4 A Yes, I'm aware that he wrote requirements documents
5 which calls out what are the features should be in the
6 product.

7 Q And at that time, in 2007, UCS Manager was called SAM
8 for Server Array Manager, correct?

9 A Yes, it was.

10 Q Okay. Can we please call up -- it's tab 11, JTX-201.

11 Do you recognize this as the Server Array Manager
12 product requirements document dated July 10, 2007, and its
13 originator or author is Satinder Sethi; that's Mr. Sethi
14 we've been discussing, correct?

15 A Yes.

16 Q And the purpose of that document is to describe how the
17 Server Array Manager fits strategically with Nuova's
18 objectives, the competitive landscape, and ecosystem for
19 SAM, and the functional requirements and customer usability
20 requirements for SAM, is that correct?

21 A Yes, I read that here, yes.

22 Q So Nuova had Mr. Sethi drafting the document specifying
23 the functional requirements for what became UCS Manager,
24 correct?

25 A Mr. Sethi had a role in it, yes.

1 Q And can you turn to page 42 of that document, Section
2 8.5. We'll have it up on the screen, along with 43.

3 Mr. Sethi included in there a section about
4 Egenera and PAN Manager, including how they should be
5 similar, what differences they could have, what the
6 benefits are of PAN Manager and Egenera's product, and key
7 aspects of the Egenera solution. Do you see that?

8 A Yes, I see it's one of the eight or nine sections in
9 section eight, yeah.

10 Q But in drafting the product requirements, the functional
11 product requirements for what becomes UCS Manager, Mr. Sethi
12 is providing the features and functionality of Egenera and
13 PAN Manager, right?

14 A Yes, it is part of his role to compare the offerings
15 with options in the market and put together the
16 requirements; yes, Mr. Sethi did that.

17 MR. THOMASES: We can take that down. Thank you,
18 Mr. Fitzgerald.

19 Q Mr. Jayakrishnan, in the 2015 to 2017 timeline, you used
20 a program called "jabber" to communicate internally at
21 Cisco, correct?

22 A Yes, I did.

23 Q And jabber is kind of like an internal messaging
24 application?

25 A Jabber specifically is a protocol. Different people use

1 for different clients, yes.

2 Q But you did use it to message with your Cisco work
3 colleagues, correct?

4 A Yes.

5 Q And you messaged about work issues, correct?

6 A I would assume so.

7 Q And one of those individuals is Carlos Pereir?

8 A Yes.

9 Q And your handle on jabber was B-J-A-Y-A-K-R-I, correct?

10 A Yes, that's my user ID at Cisco.

11 Q And Mr. Pereir's is C-A-P-E-R-E-I-R.

12 A Possibly, yeah.

13 Q Okay. Can we turn to what is in your binder as tab 14,
14 please. This is a Jayakrishnan communication between you
15 and Mr. Pereir, correct?

16 A Yes, I would think so, yes.

17 MR. THOMASES: And your Honor, I'd like to mark
18 this as JTX-529, please.

19 THE COURT: 529.

20 **(Plaintiff's Exhibit No. JTX-529 received in**
21 **evidence.)**

22 Q And if you -- oh, let me step back. In 2017, Mr. Pereir
23 was a chief architect and distinguished systems engineering
24 at the data center group at Cisco, is that right?

25 A He was in the sales team. He was a DSC, yes, that's

1 correct.

2 Q And now he is a fellow and chief architect, correct?

3 A In a different group, yes.

4 Q And "Bodega" is a code name for a new VIC, virtual
5 interface card, correct?

6 A Yes, that's correct.

7 Q And if you look down, there are some timestamps, but if
8 you look down to the timestamp that's 5:17:48 p.m. and -- a
9 little lower, grab a little more than that, grab that and a
10 little bit more.

11 Okay. You're talking about problems with Bodega.
12 "VIC is unfortunately messy these days, as we both know,"
13 says Mr. Pereir, and you say, "Bodega is coming together.
14 We should be out of the woods soon. Do you have concerns
15 outside of Bodega?" And he responds, "No. Bodega is my
16 issue. It's late. It's still problematic."

17 "It has taken a little longer than any of us would
18 prefer, you say. He says "little" in quotes, "is you being
19 way too nice" with a smiley face, and you write back with, I
20 think that's a tongue sticking out, and he uses some pretty
21 -- language I don't want to say in court, right.

22 A Yes.

23 Q Okay. So you had problems getting out new interface
24 cards, correct?

25 A What this is particularly referring to is Cisco invests

1 a lot of money in making the Bodega silicon. The Bodega
2 silicon is something one -- I mean, think about it as a
3 chip. We have to spend millions of dollars to make it.
4 Now, that process could be a problem because if you make a
5 mistake and -- you call it a basic reset, and you have to do
6 a basic reset, it takes millions of dollars, it takes six
7 months. So Bodega unfortunately went through a couple of
8 resets.

9 So I think at this timeframe, Carlos is probably
10 talking about the delays of Bodega and probably about the
11 silicon delays that we had.

12 Q Those delays though didn't bring down Cisco UCS as a
13 company, or as a department?

14 A Thankfully, we did have other options, I mean in the
15 sense of Bodega in terms of the bandwidth, it provided us
16 more, but the fact that it was late, it didn't affect us as
17 much because we had other options, as in the previous
18 generation, held up very well.

19 Q But every technology company has some delays in rolling
20 out new products, right?

21 A Yes. That is part of the development process, yes.

22 Q That doesn't mean the company is failing, correct?

23 A Depends on the company and depends on the delay, yes.

24 Q This didn't cause Cisco UCS to fail, correct?

25 A I would think if we had heard about Bodega earlier, it

1 would have helped UCS for sure, but thankfully, we didn't
2 fail.

3 Q And that, in fact, is because Cisco has a lot of
4 resources to continue investing in the development of this
5 Bodega, correct?

6 A It's a little more than that. I think UCS as an
7 architecture, it has been well-accepted by our customers so
8 sometimes they wait a little bit longer so that they can use
9 the right things.

10 Q Now, there are other problems that UCS has that has
11 caused large losses in revenue, right?

12 A Large losses in revenue. Whether it has had costs,
13 whether we had problems, yes.

14 Q Do you recall that Cisco lost a \$14 million year --
15 deal, sorry. Strike that and start again.

16 Do you recall that Cisco lost a \$14 million deal
17 with JPMC, J.P. Morgan Chase because of problems with UCS?

18 A I don't know. I mean maybe, yeah. JPMC was a customer
19 at some point, they were not a customer at some point, but I
20 think they're a customer again now.

21 Q Okay. Let's turn to tab 15 which is a jabber
22 conversation between you and who I believe is Bala Gorthi.
23 Do you recognize that name?

24 A Yes, I do.

25 Q And Mr. Gorthi's handle is B-G-O-R-T-H-I at Cisco,

1 right?

2 A Yes.

3 Q And if we look at -- oh, I'd like to mark this, your
4 Honor, as 530. JTX- 530.

5 THE COURT: 530.

6 **(Plaintiff's Exhibit No. JTX-530 received in**
7 **evidence.)**

8 Q Thank you. At the top, at 1:54:03 (sic), you say you
9 just got off Satinder's staff. Does that mean you had a
10 staff meeting with Mr. Sethi?

11 A Yes.

12 Q And he made a major push for quality, right?

13 A Yes.

14 Q And then a little bit lower, at 1:55 (sic), Mr. Bala
15 Gorthi says that "We lost a \$14 million deal with JPMC
16 because of the CAP cases." CAP case is Customer Assurance
17 Program, correct?

18 A Yes.

19 Q And that's because you had a lot of defects in the UCS,
20 correct?

21 A I would think that was one of the reasons, yes.

22 Q Well, let's go gown. Starting at 1:56 (sic), and let's
23 grab all way to 1:57:12. "This is bigger than QA." This is
24 bigger than quality assurance, right? This is a bigger
25 problem than just quality assurance?

1 A Yes.

2 Q "Of course - this is the culture we have here."

3 What did you mean by that?

4 A So, there is a tendency for the engineering teams to
5 take on a little more than what they can deliver because
6 engineers like building things. So this was around the time
7 I think I had taken on a larger team.

8 So one of the things we did after I took on is we
9 stopped a few product lines and made sure that we focused
10 on the product lines we have, and at least I'm proud that I
11 eventually reduced that to go all the way down to 300, if
12 I'm not mistaken.

13 Q But at this time, there's a discussion that defects in
14 the UCS are down to 500 from 700, correct?

15 A That's correct.

16 Q And Mr. Gorthi was shocked it was that high?

17 A Yes.

18 Q And then you say, "Not that we started off with
19 something much higher (sic) and watered down, 1200 to 700
20 right now, and that is just UCSM," correct?

21 A Yes.

22 Q And UCSM stands for UCS Manager, correct?

23 A Yes.

24 Q UCS Manager had 1200 defects at some point, correct?

25 A Yes, it did.

1 Q Okay. So defects happen in a company. It does not
2 destroy the company, correct?

3 A It depends on the defects, yes.

4 Q Didn't destroy UCS, correct?

5 A It did not affect UCS. Just so that you know, we have a
6 vetting process, so defects have severities, and most of
7 those defects were of lower severities.

8 MR. THOMASES: We can take that down,
9 Mr. Fitzgerald. Thank you.

10 Q So you start at Cisco in 2009?

11 A April 2009, yes.

12 Q So you never worked at Nuova, correct?

13 A I did not work at Nuova.

14 Q But you are aware that Mario Mazzola was one of the
15 original founders of Nuova, correct?

16 A I am aware of that, yes.

17 Q And same with Ms. Jiandani we discussed?

18 A Yes.

19 Q Are you aware that in 2004 Ammar Hanifi was in Cisco's
20 new business ventures group?

21 A Not before this trial.

22 Q Are you aware that he reported to Mario Mazzola?

23 A Not before this trial.

24 Q And you heard about these deep dive technical meetings
25 that occurred between Mr. Hanifi's team and Egenera in 2004,

1 correct?

2 A I heard this during the trial, yes.

3 Q But you were not there, correct?

4 A I was not there.

5 Q You can't tell the jury about what notes Cisco took
6 during those meetings, correct?

7 A I cannot speak for it, yes.

8 Q And you can't tell us how the Cisco employees, who
9 learned all that material from Egenera, may or may not have
10 used that information when they founded Nuova, correct?

11 A I cannot speak for it, yes.

12 Q And you can't speak to whether any of the Egenera
13 confidential information that was given on the NDA was used
14 at Nuova, correct?

15 A The only thing I can say is Cisco makes sure that all of
16 us go through cooperative business trainings, and it pushes
17 the values to everyone as Ammar Hanifi called out in his
18 deposition. Outside of it, there's nothing in particular I
19 can call out.

20 Q You have no personal knowledge at how that information
21 may or may not have been used?

22 A I have no -- I do not have any personal knowledge.

23 Q And you have no information about how that information
24 may have been used to develop Project California?

25 A As I said, I joined in April 2009. I cannot speak for

1 it.

2 Q And you don't have any personal knowledge about the
3 early UCS architecture development even before Michael
4 Dvorkin started at Nuova, right?

5 A I wouldn't know.

6 Q In 2004, Cisco did not have a data center server
7 product, correct?

8 A In 2004, it did not.

9 Q And in 2004, Cisco felt left out of the core of the data
10 center market, correct?

11 A I heard that during this trial. I was not here, I did
12 not hear that statement personally, but I did hear it during
13 the trial.

14 Q One of the witnesses who will testify for Egenera soon
15 in this trial is Dr. Jones who will explain his infringement
16 analysis. We want to be sure that when he testifies, he has
17 the opportunity to address any views you have on the
18 subject. So if you have in mind any reasons that you
19 contend Cisco does not infringe claims 3 or 7 of the '430
20 patent, can you list those reasons for us now?

21 A I think the -- if you can bring up Figure 1, I will be
22 glad to walk you through it.

23 Q Can you list them without the Figure? Do you know them?

24 A Okay. Let me -- I would have to mentally map it.

25 To start with, the '430 patent calls out that the

1 processing node will not have local storage. Every UCS
2 server has local storage. That's just one affect. I think
3 you use Giganet NICs. We don't use Giganet NICs at all.
4 Everything, everything in Cisco, everything in UCS is
5 Ethernet.

6 You have what you call control nodes and what we
7 call control nodes. I mean, the phrase matches but there
8 are a bunch of different things. There are, I'm sure there
9 are many, many other differences as well.

10 Q Would Figure 1 help if we put that up?

11 A Yes, if we can put that up.

12 MR. THOMASES: That would be JTX-31 Mr. Fitzgerald.

13 Q Any other thing to add to the list?

14 A You have, say for example here, you have a switch
15 fabric. Since you have Figure 1, for example, if you go to
16 Figure 2, Figure 3, none of those actually exist in the
17 system.

18 Say, for example, you have virtual switching
19 logic. There is no virtual switching logic in UCS. You
20 have, for example, you have local storage which is attached
21 to the control node. We don't have local storage attached
22 to the control node. All our local storage options are
23 provided in the processing node itself.

24 Our management logic, it doesn't sit outside. It
25 is embedded in the control node. This is just in terms of

1 -- I mean, by the way, this is a very indicative
2 architecture. Even if you were to go to 20 years ago, yes,
3 this is an indicator of architecture. So service will have
4 to connect to a switch fabric.

5 I mean, the switch fabric will have to connect to
6 LAN and SAN. So there are many, many such differences in
7 terms of how we have designed it. We don't have a separate
8 control node. We do have a switch fabric, but our control
9 node is a switch, is the fabric and the connect, and it has
10 the management IP in it.

11 So it is very, very different from this picture,
12 right. This is an indicative picture, so as I said, if you
13 were to go back 20 years, I'm sure you can find there are
14 certain architectures that model like this.

15 Q And you are not a legal expert, correct?

16 A I am not.

17 Q And in fact, you only provided your opinion on reading
18 the patent, and you didn't know what parts of the patent are
19 enforced in a trial, correct?

20 A During this trial, I have --

21 Q Let me -- sorry. I'll clarify. At the time of your
22 deposition in 2018, you had only read the patent, and at
23 that time, you didn't know what parts of the patent were
24 enforced, correct?

25 A Yes, that is correct.

1 MR. THOMASES: I pass the witness, your Honor.

2 MR. RHODES: May it please the court, Michael
3 Rhodes for defendant, Cisco systems.

4 **CROSS-EXAMINATION**

5 **BY MR. RHODES:**

6 Q Hello, Mr. Jayakrishnan.

7 A Hello.

8 Q I want to ask you about one area where I think Egenera
9 counsel misspoke. So let me just show you the transcript to
10 make sure the record is clear here.

11 Can I have the document camera, please? So here is
12 part of the transcript.

13 Do you remember speaking with Egenera's counsel
14 about the host agent?

15 A Yes, I think it was reading a particular document.

16 Q And its counsel asked you if the sister document, that
17 was the prior name for PAN Manager? Do you see that?

18 A Oh, sorry. I thought it was UCS Manager. That was, I
19 think the document had it as a UCS Manager. I was focusing
20 on the document.

21 Q Thank you for clearing that up. And you were also asked
22 some questions about Mr. Satinder Sethi and a products
23 requirement document. Do you recall that?

24 A Yes.

25 Q Did Mr. Sethi play any role in the design or engineering

1 of UCS?

2 A No.

3 Q And he showed you a products requirement document,
4 right?

5 A Yes, he did.

6 Q And were there earlier versions of that document that
7 you've seen with similar information?

8 A Yes, I have.

9 Q And do those documents say that UCS is the same or
10 different from Egenera's product?

11 A Very different.

12 Q Counsel also asked you about Cisco's interrogatory
13 response, do you remember that?

14 A Yes.

15 Q But he only showed part of the response, so let me ask
16 you about the other part of the answer that he didn't show
17 you, and this is JTX-518 for the record.

18 So here at the beginning of Cisco's response to
19 interrogatory number 15. It says that, "No Cisco or Nuova
20 employee who formerly worked at Egenera was involved with
21 either the development or design of the accused product."

22 Do you see that?

23 A Yes.

24 Q Does that comport with your understanding?

25 A Yes, of the software architecture, the basics and the

1 hardware.

2 Q Now, counsel also asked you if could you speak to what
3 Nuova specifically used from Egenera to build UCS, do you
4 recall that?

5 A Yes.

6 Q But you can speak to how UCS works and whether it works
7 in the same way as the patent you reviewed, right?

8 A Yes.

9 Q Do you think UCS works like the BladeFrame in the
10 patent?

11 A Absolutely not.

12 Q And Mr. Jayakrishnan, will you be here with us next week
13 to testify on Cisco's behalf about how UCS works and why it
14 doesn't infringe?

15 A Yes, I am happy to be here and discuss that.

16 Q Then I'll reserve my further questions until next week.
17 Thank you.

18 THE COURT: Thank you. Anything further?

19 MR. THOMASES: Just one, two follow-ups.

20 **REDIRECT EXAMINATION**

21 BY MR. THOMASES:

22 Q Mr. Jayakrishnan, you are not a patent expert or legal
23 expert, correct?

24 A I am not.

25 Q And again, that means you cannot interpret the claims,

1 claims 3 and 7 at the end of the patent, correct?

2 A It is my personal interpretation of what are present in
3 the claims, but as I said, I'm not a patent attorney or a
4 patent expert.

5 Q And the claims 3 and 7 don't require local storage on
6 the blades or on the control node?

7 A Claims 3 do not require local storage, yes, that is
8 correct, but it requires programming the CPU for the network
9 topology, which we don't know.

10 Q But you listed lack of local storage as one of the
11 reasons, right?

12 A Oh, I was -- I thought your question was not about the
13 claims but the patent in Egenera. So the Figure 1, Figure
14 2, Figure 3, Figure 4, many of those do not exist in the
15 product.

16 Q So you are not providing any opinion about the claims
17 and whether UCS infringes, correct?

18 A At this moment, no, I'm not.

19 MR. THOMASES: Thank you, your Honor.

20 THE COURT: Mr. Jayakrishnan, I think that, for the
21 time being, concludes your testimony.

22 THE WITNESS: Thank you, your Honor.

23 THE COURT: All right. Next witness, please.

24 MS. NOTIS-McCONARTY: Your Honor, Egenera will now
25 play the deposition testimony of Mr. Justin Chen. Mr. Chen

1 was the director of software engineering at Cisco. The time
2 for Egenera is 36 minutes and 31 seconds and the time for
3 Cisco is 7 minutes and 33 seconds.

4 (Video deposition of Justin Chen played)

5 THE COURT: Could you tell me again how you
6 allocated the time between the parties?

7 MS. NOTIS-McCONARTY: Yes, I can, your Honor.

8 THE COURT: Make sure I got it correctly.

9 MS. NOTIS-McCONARTY: For Mr. Justin Chen, it was
10 36 minutes and 31 seconds for Egenera, and 7 minutes and 33
11 seconds for Cisco.

12 THE COURT: Thank you. All right. Next?

13 MS. NOTIS-McCONARTY: Thank you, your Honor. And
14 Egenera will now play another deposition video to support
15 the opinion of our expert, Doctor Mark Jones. This is a
16 deposition of Sidney Morgan, who is a senior manager in
17 Cisco's IT group. Thank you.

18 THE COURT: And the length?

19 MS. NOTIS-McCONARTY: Sorry, your Honor. It's 17
20 minutes and 55 seconds for Egenera and 5 minutes and 17
21 seconds for Cisco.

22 THE COURT: That should take us neatly to 1:00.
23 Okay.

24 MS. NOTIS-McCONARTY: It should, your Honor.

25 (Video deposition of Sidney Morgan played.)

1 THE COURT: All right. That conveniently takes us
2 to one.

3 MS. NOTIS-McCONARTY: Your Honor, just one more
4 matter before we move to lunch, if we can. The following
5 Exhibits were used in the depositions, and therefore, we'd
6 like to move them into the record. PX-ABH is JTX-531.
7 PX-AUS is JTX-532. PX-BUK is JTX-533. PX-CDG is JTX-534
8 and PX-ARD is JTX-535. Thank you, your Honor.

9 **(Plaintiff's Exhibit Nos. JTX-531, JTX-532,**
10 **JTX-533, JTX-534, JTX-535 received in evidence.)**

11 THE COURT: All right, jurors. I know that was a
12 lot to absorb, but I think we're getting ready to hear from
13 the experts in this case. It's their job to untangle all of
14 this for us and bring clarity to the testimony we've heard
15 to this point. We're doing well on the schedule by my
16 clock. The plaintiffs have used seven hours and 42 minutes,
17 defendants, five hours and 16 minutes, so we're right on the
18 schedule I anticipated. So have a wonderful weekend. You
19 deserve it. And I'll see you first thing Monday morning at
20 9 o'clock.

21 THE CLERK: All rise. Court is now in recess.

22 (Jury and court depart.)

23 (Whereupon the proceedings adjourn at 1:00 p.m.)
24
25

I N D E X

WITNESS (VIA VIDEOTAPE DEPOSITION)

AMMAR HANAFI, resumed	4
JASON SHAW	5
GEORGE CHEN	5
MICHAEL HEAL	6
SCOTT CLARK	6
TONY VAIDYA	6
JUSTIN CHEN	75
SIDNEY MORGAN	76

WITNESS:	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
----------	---------------	--------------	-----------------	----------------

BHASKAR JAYAKRISHNAN

By Mr. Thomases	7	74
-----------------	---	----

By Mr. Rhodes	72
---------------	----

E X H I B I T S

JOINT	IN EV
-------	-------

No. JTX-500 Scott Clark "Professional Services"	4
-------------------------------------------------	---

document

No. JTX-518 Cisco's response to Interrogatory	5
-----------------------------------------------	---

No. 15

No. JTX-519 Doc used in Vaidya depo	6
-------------------------------------	---

No. JTX-520 Doc used in Vaidya depo	6
-------------------------------------	---

CONT'D

	JOINT	IN EV
1		
2	No. JTX-521 Doc used in Vaidya depo	7
3	No. JTX-522 Doc used in Vaidya depo	7
4	No. JTX-523 Santa Clara Chassis document	20
5	No. JTX-524 USC Manager Developer's Guide	23
6	No. JTX-525 UCS Quick Start Guide	29
7	No. JTX-526 12/19/07 Bugnion email	37
8	No. 527 10/27/09 email	43
9	JTX-528 Email from Ms. Jiandani	56
10	JTX-529 Communication between Messrs.	61
11	Pereir and Jayakrishnan	
12	JTX-530 jabber conversation - Gorthi and	65
13	Jayakrishnan	
14	JTX-531 Presentation "Cisco on Cisco"	77
15	JTX-532 Delivering Fast IT Through IT	77
16	Infrastructure Transformation	
17	JTX-533 Cisco on Cisco - Sharing Cisco's IT	77
18	Experience	
19	JTX-534 NDCSD Nexus & UCS DC Network Design	77
20	Guide	
21	JTX-535 UCS F1 Developer's Guide	77

* * * *

C E R T I F I C A T E

We, James P. Gibbons, Official Court Reporter for the United States District Court for the District of Massachusetts, and Lisa McDonald, RPR, RMR, CRR, do hereby certify that the foregoing pages are a true and accurate transcription of our shorthand notes taken in the aforementioned matter to the best of our skill and ability.

/s/James P. Gibbons
James P. Gibbons

August 5, 2022

/s/Lisa McDonald
Lisa McDonald

JAMES P. GIBBONS, CSR, RPR, RMR
Official Court Reporter
1 Courthouse Way, Suite 7205
Boston, Massachusetts 02210
jmsgibbons@yahoo.com